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9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**

12
13 **In the Matter of the Statement of Reasons**
14 **Against:**

BGC Case No. BGC-HQ 2015-00011SL

CGCC Case No. GCADS-TPPL-014337

15 **Brianna Montegrando-Klingenberg**
16 

STATEMENT OF REASONS

17 **Respondent.**

18
19 Complainant alleges as follows:

20 **PARTIES**

21 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons for the
22 denial of conversion of a third-party proposition player registration to a license solely in his
23 official capacity as the Chief of the California Department of Justice, Bureau of Gambling
24 Control (Bureau).

25 2. On or about September 11, 2014, Brianna Montegrando-Klingenberg
26 (Respondent), submitted an Application for Third Party Proposition Player Services
27 Registration to the Bureau. The Bureau issued the Registration to Respondent and she presently
28 holds Third Party Proposition Player Registration No. TPPL-014337.

1 safety, or welfare.

2 (b) For the purposes of this section, "unqualified person" means a
3 person who is found to be unqualified pursuant to the criteria set forth in
4 Section 19857, and "disqualified person" means a person who is found
5 to be disqualified pursuant to the criteria set forth in Section 19859.

6 10. Business and Professions Code section 19824 provides, in part:

7 The commission shall have all powers necessary and proper to
8 enable it fully and effectually to carry out the policies and purposes of
9 this chapter¹, including, without limitation, the power to do all of the
10 following:

11 * * *

12 (b) For any cause deemed reasonable by the
13 commission, deny any application for a license, permit, or
14 approval provided for in this chapter or regulations adopted
15 pursuant to this chapter, limit, condition, or restrict any
16 license, permit, or approval, or impose any fine upon any
17 person licensed or approved.

18 * * *

19 (d) Take actions deemed to be reasonable to ensure that
20 no ineligible, unqualified, disqualified, or unsuitable persons
21 are associated with controlled gambling activities.

22 11. Business and Professions Code, section 19870 provides:

23 (a) The commission, after considering the recommendation of
24 the chief² and any other testimony and written comments as may be
25 presented at the meeting, or as may have been submitted in writing to
26 the commission prior to the meeting, may either deny the application
27 or grant a license to an applicant who it determines to be qualified to
28 hold the license.

(b) When the commission grants an application for a license or
approval, the commission may limit or place restrictions thereon as it
may deem necessary in the public interest, consistent with the policies
described in this chapter.

(c) When an application is denied, the commission shall prepare
and file a detailed statement of its reasons for the denial.

26 ¹ Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
27 (commencing with section 19800), also known as the Gambling Control Act.

28 ² "Chief" refers to the Chief of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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(d) All proceedings at a meeting of the commission relating to a license application shall be recorded stenographically or by audio or video recording.

(e) A decision of the commission denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

12. Business and Professions Code, section 19871 provides:

(a) The commission meeting described in Section 19870 shall be conducted in accordance with regulations of the commission and as follows:

(1) Oral evidence shall be taken only upon oath or affirmation.

(2) Each party shall have all of the following rights:

(A) To call and examine witnesses.

(B) To introduce exhibits relevant to the issues of the case.

(C) To cross-examine opposing witnesses on any matters relevant to the issues, even though the matter was not covered on direct examination.

(D) To impeach any witness, regardless of which party first called the witness to testify.

(E) To offer rebuttal evidence.

(3) If the applicant does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule

1 that might make improper the admission of that evidence over
2 objection in a civil action.

3 (b) Nothing in this section confers upon an applicant a right to
4 discovery of the department's³ investigative reports or to require
5 disclosure of any document or information the disclosure of which is
6 otherwise prohibited by any other provision of this chapter.

7 SPECIFIC STATUTORY AND REGULATORY PROVISIONS

8 13. Business and Professions Code section 19856, subdivision (a) provides, in part:

9 The burden of proving his or her qualifications to receive any license
10 is on the applicant.

11 14. Business and Professions Code section 19857 provides:

12 No gambling license shall be issued unless, based on all the
13 information and documents submitted, the commission is satisfied that
14 the applicant is all of the following:

15 (a) A person of good character, honesty and integrity.

16 (b) A person whose prior activities, criminal record, if
17 any, reputation, habits, and associations do not pose a threat to
18 the public interest of this state, or to the effective regulation and
19 control of controlled gambling, or create or enhance the dangers
20 of unsuitable, unfair, or illegal practices, methods, and activities
21 in the conduct of controlled gambling or in the carrying on of
22 the business and financial arrangements incidental thereto.

23 (c) A person that is in all other respects qualified to be
24 licensed as provided in this chapter.

25 15. Business and Professions Code section 19859 provides, in part:

26 The commission shall deny a license to any applicant who is
27 disqualified for any of the following reasons:

28 (a) Failure of the applicant to clearly establish eligibility
and qualification in accordance with this chapter.

(b) Failure of the applicant to provide information,
documentation, and assurances required by this chapter or
requested by the chief, or failure of the applicant to reveal any

³ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

1 fact material to qualification, or the supplying of information
2 that is untrue or misleading as to a material fact pertaining to the
qualification criteria.

3 (c) Conviction of a felony, including a conviction by a
4 federal court or a court in another state for a crime that would
constitute a felony if committed in California.

5 16. California Code of Regulations, title 4, section 12218.11 provides, in part:

6 A requester [of a Third Party Proposition Player Services license]
7 shall be ineligible for licensing for any of the following causes:

8 * * *

9 (a) The requester has been convicted of any felony,
10 including a conviction in a court of the United States or any
11 other state of an offence that is classified as a felony by the laws
of this state.

12 * * *

13 (e) The requester has failed to meet the requirements of
14 Business and Professions Code sections 19856 or 19857.

15 (f) The requester would be ineligible for a state gambling
16 license under any of the criteria set forth in Business and
17 Professions Code section 19859, subdivisions (b), (e), or (f).

18 * * *

19 (j) The applicant is ineligible based on any other
20 provision of law.

21 17. Business and Professions Code section 19866 provides:

22 An applicant for licensing or for any approval or consent required by
23 this chapter, shall make full and true disclosure of all information to the
24 department and the commission as necessary to carry out the policies of
this state relating to licensing, registration, and control of gambling.

25 18. California Code of Regulations, title 4, section 12204 provides, in part:

26 An applicant shall be ineligible for registration for any of the following
27 causes:

28 * * *

(b) The applicant has been convicted of any felony, including
a conviction in a court of the United States or any other state of an
offence that is classified as a felony by the laws of this state.

* * *

1 (e) The applicant would be ineligible for a state gambling
2 license under any of the criteria set forth in Business and Professions
Code section 19859, subdivisions (b), (e), or (f).

3 * * *

4 (i) The applicant is ineligible based on any other provision of
law.

5 19. California Code of Regulations, title 4, section 12205 provides:

6 (a) Any regular registration issued in accordance with this
7 chapter shall be subject to cancellation pursuant to this section. A
8 registration shall be cancelled if the Commission determines after a
9 noticed hearing that the registrant is ineligible for registration, has
10 failed in the application for registration to reveal any fact material to
the holder's qualification for registration, or has supplied information
in the registration application that is untrue or misleading as to a
material fact pertaining to the criteria for issuance of registration.

11 (b) If the Commission finds that any of the circumstances set
12 forth in subsection (a) apply, then the Executive Director shall
immediately do all of the following:

13 (1) Provide written notice to the registrant and the Bureau
14 of the cancellation of the registration and the grounds thereof, and
15 provide written notice of the cancellation to the owner, if the
registrant is a supervisor, player, or other employee and to any
gambling establishment in which the registrant provides
proposition player services.

16 (2) Notify the registrant, if an individual, that he or she is
17 required to surrender the registrant's badge to the Commission not
18 more than ten days following the date that the notice of the
cancellation was mailed or such greater time as is authorized by
the Executive Director.

19
20 **FIRST CAUSE FOR DENIAL OF LICENSE APPLICATION**
21 **(Felony Conviction – Disqualified for Licensure)**

22 20. Respondent's Application is subject to mandatory denial pursuant to Business and
23 Professions Code section 19859, subdivisions (a) and/or (c), and California Code of Regulations,
24 title 4, section 12218.11, subdivisions (b), (e), and/or (j), in that on or about March 6, 2009,
25 Respondent was convicted of the crime of Attempted Possession of Marijuana for Sale, a Class 4
26 Felony, in violation of Arizona Revised Statutes, sections 13-3405, subdivision (a)(2); 13-3401;
27 13-101; 13-701; 13-702 and 13-801, in the case of *State of Arizona v. Brianna Marie*
28 *Montegrande* (Coconino County Superior Court Case No. CR 2008-0924). Respondent's

1 conviction would constitute a felony if committed in California, as a violation of California
2 Health and Safety Code section 11359 and/or California Health and Safety Code section 11360,
3 in conjunction with California Health and Safety Code section 11362.

4 **SECOND CAUSE FOR DENIAL OF LICENSE APPLICATION**
5 **(Failure to Provide Material Fact/Supplying Untrue**
6 **Information – Disqualified for Licensure)**

7 21. Respondent's Application is subject to mandatory denial pursuant to Business and
8 Professions Code section 19859, subdivisions (a) and/or (b); Business and Professions Code
9 section 19866; and California Code of Regulations, title 4, section 12218.11, subdivisions (e), (f),
10 and/or (j), in that Respondent failed to clearly establish qualification and eligibility for licensure,
11 failed to make full and true disclosure of all information to the Bureau and the Commission as
12 necessary to carry out the policies of this State relating to licensing, registration, and control of
13 gaming, failed to provide information, documentation, and assurances required by the Gambling
14 Control Act or as requested by the chief, and/or failed to reveal facts material to her qualification
15 or the supplied information was untrue or misleading as to a material fact pertaining to the
16 qualification criteria. Specifically, Respondent indicated in two places on her application for
17 licensure, which she signed under penalty of perjury on September 9, 2014, that she had never
18 been convicted of a felony, and she failed to disclose on her application that on or about March 6,
19 2009, she had been convicted, upon a plea of guilty, of violating Arizona Revised Statutes,
20 sections 13-3405, subdivision (a)(2); 13-3401; 13-101; 13-701; 13-702 and 13-801, Attempted
21 Possession of Marijuana for Sale, a Class 4 Felony, in the case of *State of Arizona v. Brianna*
22 *Marie Montegrande* (Coconino County Superior Court Case No. CR 2008-0924).

23 **THIRD CAUSE FOR DENIAL OF LICENSE APPLICATION**
24 **(Lack of Requisite Good Character, Honesty and Integrity/Criminal**
25 **Record – Unqualified for Licensure)**

26 22. Respondent's application is subject to discretionary denial pursuant to Business
27 and Professions Code, section 19857, subdivisions (a), (b) and/or (c); Business and Professions
28 Code section 19866; and California Code of Regulations, title 4, section 12218.11, subdivisions

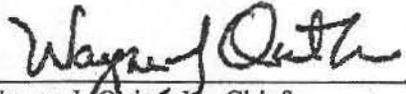
1 (e) and (j). Respondent has demonstrated a lack of the requisite good general character, honesty,
2 and integrity. Respondent's prior activities, criminal record, habits, and associations pose a threat
3 to the public interest of this State, or to the effective regulation and control of controlled
4 gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and
5 activities in the conduct of controlled gambling. Respondent was convicted of a Class 4 Felony
6 in 2009, as set forth in paragraph 20, and Respondent affirmatively failed to disclose her 2009
7 felony conviction on her application as required, yet signed the application under penalty of
8 perjury, as set forth in paragraph 21.

9 **PRAYER**

10 WHEREFORE, Complainant requests that following the hearing to be held on the matters
11 herein alleged, that the Commission thereafter issue a decision:

- 12 1. Denying Respondent's Application for a Third Party Proposition Player Services
13 License;
- 14 2. Taking such other and further action as the Commission may deem appropriate,
15 including directing the Executive Director to cancel Respondent's Third Party Player Registration
16 No. TPPL-014337 pursuant to California Code of Regulations, title 4, sections 12204 and 12205,
17 subdivisions (a) and (b).

18
19 Dated: December 4, 2015


Wayne J. Quint, Jr., Chief
Bureau of Gambling Control
California Department of Justice
Complainant